

46 Am. Jur. 2d Judges § 11

American Jurisprudence, Second Edition | February 2022 Update

Judges

Glenda K. Harnad, J.D.; and Kristina E. Music Biro, J.D., of the staff of the National Legal Research Group, Inc.

III. Term of Office, in General

§ 11. Term of office of judge, generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  7, 9

Judges are usually elected or appointed for a term of years.¹

The Federal Constitution provides that the Judges of the Supreme Court and of inferior federal courts will hold their offices during good behavior.²

A constitutional amendment may change the term of an incumbent judge; however, the terms of office of judicial positions may not be changed by a constitutional amendment that is not self-executing, that does not supersede the preexisting constitutional provision by an express repeal, and that does not clearly express the intent that the change in the term be made immediately.³

In the absence of constitutional authority, if the term of a judge is fixed by the constitution, the legislature cannot extend or diminish it⁴ by providing that judges will serve for the term so fixed and until their successors are duly appointed and qualified.⁵ Similarly, in exercising the executive power of appointment, a governor does not have discretion regarding the length of an appointed judge's term and the date of the expiration of that term where such matters are explicitly prescribed by the state constitution.⁶

© 2022 Thomson Reuters. 33-34B © 2022 Thomson Reuters/RIA. No Claim to Orig. U.S. Govt. Works. All rights reserved.

Footnotes

- 1 [Draughn v. Brown](#), 651 S.W.2d 728 (Tex. 1983).
As to the duration of the term of a judge chosen to fill a vacancy, see [§ 225](#).
- 2 [U.S. Const. Art. III, § 1](#).
- 3 [State ex rel. Cotter v. Leipner](#), 138 Conn. 153, 83 A.2d 169 (1951).
- 4 [State ex rel. Rundbaken v. Watrous](#), 135 Conn. 638, 68 A.2d 289 (1949).

5 § 12.
6 Sprague v. Casey, 520 Pa. 38, 550 A.2d 184 (1988).

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.